

Appl. No.: 10/788,491
Amdt dated: January 27, 2005
Reply to Office Action of November 4, 2004

REMARKS/ARGUMENTS

This is a response to the Office Action of November 4, 2004, in which a three-month term was set for response. Accordingly, this response is timely filed.

Amendments to the Claims

By this response, there are now a total of 19 claims pending in this application. Claims 48, 49, 51-53 and 71 have been canceled without prejudice or disclaimer to applicant's right to continuation and divisional applications. In addition, claim 50 has been amended to depend from claim 44 since claim 48 was canceled.

Claim Rejections—35 U.S.C. §101

In paragraphs 1 and 2 of the Office Action of November 4, 2004, the Examiner made an obviousness-type double patenting rejection and argued that the subject application is unpatentable over claims 1 – 19 of U.S. 6,759,863. Specifically, the Examiner argued that claims 34, and 54-57 of the subject application are similar to claim 1 of U.S. 6,759,863.

The Examiner further stated that the double patenting rejection can be overcome by canceling or amending the conflicting claims so that they are no longer coextensive in scope.

In response, the Applicant respectfully submits that the claims of the subject application are no longer coextensive in scope. The Applicant has canceled claim 48. Accordingly, there is no combination of claims in the subject application that reads on claim 1 of U.S. 6,759,863. Therefore, the Applicant submits that the invention defined by claim 34 of the subject application is not identical to the subject matter defined by the claims of U.S.

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6,759,863; i.e. there is an embodiment that falls within the scope of one set of claims, but not the other.

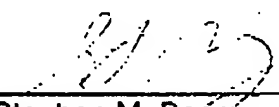
CONCLUSION

In view of the foregoing comments, it is respectfully submitted that the application is now in condition for allowance. If the Examiner has any concerns regarding this response, the Examiner is respectfully requested to contact the undersigned at 416-957-1697.

Respectfully submitted,

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